

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

William L. Ridenour and Tommy Lee Brown,	:	
	:	Civil Action 2:10-cv-00493
Plaintiffs	:	
	:	Judge Economus
v.	:	
	:	Magistrate Judge Abel
Ohio Department of Rehabilitation and Correction, <i>et al.</i> ,	:	
Defendants	:	

Order

This matter is before the Magistrate Judge on plaintiffs William L. Ridenour and Tommy Lee Brown's January 15, 2013 motion for reconsideration of my January 7, 2013 Order denying plaintiffs' motion for clarification (doc. 81).

Plaintiffs object to the finding that plaintiffs were not permitted to go forward with the claim for declaratory relief based on the Private Settlement Agreement in *Smith, et al. v. Ohio Department of Rehabilitation and Correction, et al.*, Case No. 2:08-cv-00015. Plaintiff maintains that declaratory relief may take the form of money damages.

During the telephone conference, I understood that plaintiffs intended to dismiss their claim for declaratory relief. Plaintiffs have made it clear that that was not their intent. The proper method for the Court to evaluate the merits of plaintiffs' claim is on the basis of a motion to dismiss rather than plaintiffs' motion for clarification. Therefore,

plaintiffs' January 15, 2013 motion for reconsideration of the Magistrate Judge's January 7, 2013 Order denying plaintiffs' motion for clarification (doc. 81) is GRANTED.

Plaintiffs' claim for declaratory relief remains pending.

The Clerk of Court is DIRECTED to remove document 100 from the pending motions list. It is MOOT.

Under the provisions of 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P., and Eastern Division Order No. 91-3, pt. F, 5, either party may, within fourteen (14) days after this Order is filed, file and serve on the opposing party a motion for reconsideration by the District Judge. The motion must specifically designate the Order, or part thereof, in question and the basis for any objection thereto. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

s/Mark R. Abel
United States Magistrate Judge